

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-18 are pending in this application. Claims 1 and 8-18, which are independent, are hereby amended. No new matter has been introduced. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

### **II. REJECTIONS UNDER 35 U.S.C. §102(e) and §103(a)**

Claims 1-5 and 7-18 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,973,662 to Sie, et al. (hereinafter, merely "Sie").

Claim 6 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sie in view of U.S. Patent No. 5,831,662 to Payton (hereinafter, merely "Payton").

Claim 1 recites, *inter alia*:

"A data transmission system...

**wherein the data transmitting apparatus stores the distributed divisional data files in a private section of a respective transport stream**; and

**wherein the data receiving apparatus extracts the divisional data files from the private section of the transport stream.**" (Emphasis added)

As understood by Applicants, Sie relates to a method and apparatus for distributing programming. A first set of program segments is transmitted according to a schedule of programming. A second set of program segments is stored on a server, with at least one of the first set of program segments having a counterpart in the second set of program segments. A database is maintained that records user authorizations to program segments on the server. A request from a user for program control of a particular program segment is detected and a determination is made whether to grant program control to the user.

Applicants respectfully submit that Sie does not teach or suggest the above identified features of claim 1. Specifically, Sie do not teach or suggest a data transmission system wherein the data transmitting apparatus stores the distributed divisional data files in a private section of a respective transport stream and wherein the data receiving apparatus extracts the divisional data files from the private section of the transport stream, as recited in independent claim 1.

Further, Payton fails to cure the deficiencies of Sie.

Therefore, Applicants submit that independent claim 1 is patentable.

For reasons similar to, or somewhat similar to, those described above with regard to independent claim 1, independent claims 8-18 are also believed to be patentable.

### **III. DEPENDENT CLAIMS**

The other claims in this application are each dependent on an independent claim discussed above, and are therefore believed patentable for at least the same reasons. Since each

dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

**CONCLUSION**

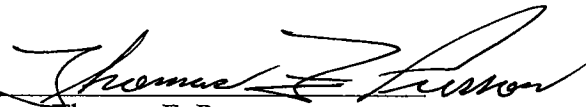
In the event the Examiner disagrees with any of statements appearing above with respect to the disclosures in the cited reference or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference or references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By   
Thomas F. Presson  
Reg. No. 41,442  
(212) 588-0800